

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



May 6, 1992

ALL COUNTY LETTER NO 92-46

TO: COUNTY WELFARE DIRECTORS

## REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☒ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Self-Initiated by SDSS
- ☐ Administrative, Operational, or Fiscal Instructions

SUBJECT: AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAM-  
EARNED INCOME TAX CREDIT (EITC), BASS v. CARLSON COURT CASE

REFERENCES: PUBLIC LAW 101-508, OMNIBUS BUDGET RECONCILIATION ACT OF  
1991, ACL 91-48, MPP 44-113.3(Q), 42-213.2(r)

The purpose of this letter is to instruct the Counties on the requirements contained in the court order in the Bass v. Carlson Court case (a copy of the order is attached). Counties are to prepare to implement the terms of the court order upon receipt of this letter.

The Bass Court case required that effective January 1, 1991 Earned Income Tax Credits (EITC) be excluded as income and as a resource for the individual and his/ her family for the month of receipt and the following month. ACL 91-48 instructed Counties to implement the change in treatment of the EITC payment prospectively for the months July 1991 forward. This letter instructs Counties to pay corrective payments to eligible claimants who self-identify as having their EITC payment incorrectly handled during a retroactive period of January 1, 1991 through June 30, 1991.

POSTER

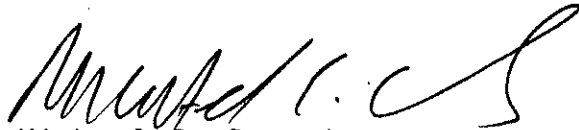
The final settlement in Bass requires that a poster be displayed in English and Spanish in each County Welfare Department Office and Food Stamp outlet. The Poster must be displayed for the period June 1, 1992 through November 30, 1992. Counties will be provided with sufficient Posters to display in all County Welfare Offices and Food Stamp Outlets in their Counties. Counties will make Food Stamp Outlets aware of Bass Poster display requirements and will provide each office with an appropriate number of Posters. The Poster will be transmitted to the Counties under a separate cover letter as soon as administratively feasible.

### Claims Process

Claimants who self-identify will be entitled to have their claim reviewed within 60 days. If the review results in a determination of eligibility for retroactive benefits the County must correct any underpayment within 15 days of final determination of eligibility. Claims submitted which identify another County as the responsible County shall be forwarded to the responsible County which then must correct any underpayment.

If your County does not receive enough Posters or if you have any questions on the Bass Court case, please call Mr. Vincent Toolan at (916) 654-1808 or ATSS 464-1808.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael C. Genest", with a stylized flourish at the end.

Michael C. Genest  
Deputy Director

1 KIRK MCINNIS  
2 LEGAL AID SOCIETY OF ALAMEDA COUNTY  
3 1440 Broadway, Suite 700  
4 Oakland, California 94612  
5 Telephone: (510) 451-9261

6 KATHERINE E. MEISS  
7 WESTERN CENTER ON LAW AND POVERTY, INC.  
8 3535 West Sixth Street  
9 Los Angeles, California 90020  
10 Telephone: (213) 487-7211

11 Attorneys for Petitioner/Plaintiff

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF ALAMEDA

14	CLAUDIA BASS,	)	CASE NO. 680558-6
15		)	
16	Petitioner/Plaintiff,	)	STIPULATION FOR ENTRY
17		)	<u>OF JUDGMENT</u>
18	vs.	)	
19		)	
20	LONNIE CARLSON, as Acting	)	
21	Director of the California	)	
22	Department of Social Services,	)	
23	and THOMAS HAYES, as Director	)	
24	of the California Department	)	
25	of Finance,	)	
26		)	
27	Respondents/Defendants.	)	
28		)	

18 The plaintiff, having filed this action for declaratory  
19 and injunctive relief and a writ of mandate with respect to the  
20 Department of Social Services policy of counting an Earned  
21 Income Tax Credit (EITC) as a resource in the month following  
22 the month of receipt for purposes of determining AFDC  
23 eligibility or grant levels and the parties having agreed to  
24 settle this action without further time or expense, it is  
25 therefore

26 STIPULATED AND AGREED by and between the attorneys for the  
27 parties that a judgment may be entered in this action upon the  
28 following terms without further notice to any party:

1           1. To the extent that the regulation of the California  
2 Department of Social Services, previously located at EAS  
3 42-213.2(r), did not exclude an EITC as a resource for both the  
4 month of receipt and the following month, it is contrary to  
5 federal law, specifically Title 42 of the United States Code,  
6 Public Law 101-508 §11115(a)(1)(B).

7           2. As defendants have issued All-County Letter 91-48,  
8 effective June 13, 1991, and promulgated regulations effective  
9 August 1, 1991, directing the county social services departments  
10 to cease implementing the one month resource exclusion rule as  
11 found in EAS 42-213.2(r) and to begin excluding EIC payments as  
12 resources in both the month of receipt and the next month, the  
13 need for further prospective or injunctive relief is obviated.

14           3. The defendants have taken all the actions necessary to  
15 have EAS 42-213.2(r) repealed and to issue a corrected  
16 regulation and new EAS manual pages which conform to federal  
17 law.

18 Posters

19           4. Defendants agree to identify through the use of  
20 posters those individuals who were terminated from AFDC or whose  
21 grant was otherwise effected by the challenged policy.  
22 Defendants will correct any underpayments brought to the  
23 defendants' attention which resulted from said policy.

24           5. In order to identify those individuals who were  
25 underpaid defendants agree to develop a poster and to distribute  
26 them as set forth below. The posters shall be in English and  
27 Spanish, and provided in sufficient numbers to post in each  
28 County Welfare Department (CWD) office and food stamp outlet.

1 The posters shall be displayed for 180 days beginning on a date  
2 specified by the defendants which shall be uniform throughout  
3 the state but in no case beginning later than June 1, 1992.

4 There shall be a short statement on the poster in four languages  
5 (specified below) advising in substance: "If you lost cash aid  
6 because of a tax refund, the county may owe you money. You may  
7 contact the welfare department for a translation of this notice  
8 or call 1-800-952-5253."

9 6. Defendants shall provide sufficient posters in both  
10 English and Spanish to all county welfare departments and food  
11 stamp outlets and shall distribute an additional 300 posters to  
12 addresses of offices identified on mailing labels provided by  
13 plaintiffs' attorneys.

14 Plaintiffs' Review of Documents to Implement Retroactive  
15 Payments

16 7. Posters developed to implement the retroactive  
17 benefits portion of this settlement shall be developed in  
18 concert with counsel for plaintiffs. Defendant shall transmit  
19 all such documents to plaintiffs' counsel for review and comment  
20 as soon as administratively possible. Plaintiffs shall return  
21 comments on the documents, within 15 working days from receipt  
22 of such documents. In the event that plaintiffs' counsel  
23 objects to any such document, the parties shall attempt to  
24 resolve their disagreement. If they are unable to do so,  
25 plaintiffs may seek further relief from the Court upon five days  
26 notice to defendants. In that event, defendants shall not  
27 finalize the disputed document pending judicial review. If  
28 plaintiffs petition the Court for further relief, the time

1 frames contained in this stipulation will be suspended for the  
2 period of time necessary for the Court to resolve the dispute  
3 over the proposed document.

4 8. The parties agree that the timely operation of the  
5 corrective underpayments process is critical to full relief in  
6 this action. In the event of a delay under paragraph 7,  
7 defendants will make all good faith efforts to proceed with the  
8 claims process as rapidly as administratively feasible.

9 Claims Process

10 9. Any individual who contacts the CWD and claims to have  
11 been effected by this policy shall be entitled to have their  
12 case file pulled and reviewed within 60 days. If said review  
13 shows the claimant was terminated or otherwise underpaid based  
14 on EAS 42-213.2(r), the CWD shall take all necessary steps to  
15 correct any underpayments within 15 days of the final  
16 determination of eligibility.

17 Other Matters

18 10. The Court shall retain jurisdiction for two years to  
19 enforce or amend any provision of this Judgment and, if  
20 necessary, to modify or clarify any of its provisions or  
21 defendants' compliance with this settlement upon noticed motion  
22 by counsel for either party.

23 11. This stipulation constitutes a full and complete  
24 settlement of this litigation, entered into by all parties.

25 //

26 //

27 //

28 //

1 12. Attorneys' fees and costs, if any, sought by  
2 plaintiffs will be the subject of separate negotiations, and  
3 proceedings, if necessary.

4  
5 Western Center on Law and  
Poverty

6 Legal Aid Society of Alameda  
7 County

8 Dated: 3/4/92

By: (Kirk McInnis)  
Kirk McInnis

9 Attorneys for Plaintiff

10  
11 Dated: 3-2-92

By: Stephanie Wald  
Stephanie Wald  
Supervising Deputy (sw)  
~~Assistant~~ Attorney General

12  
13  
14 Attorneys for Defendants

15  
16 SO ORDERED:

17 Dated: MAR 05 1992

JAMES R. LAMBDEN

Judge Of The Superior Court